

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: E.I. DUPONT DE NEMOURS
AND COMPANY C-8 PERSONAL
INJURY LITIGATION

Civil Action 2:13-MD-2433
Judge Edmund A. Sargus, Jr.
Magistrate Judge Elizabeth P. Deavers

**AFFIDAVIT OF ROBERT A. BILOTT IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY JUDGMENT UNDER RULE 56 OR FOR
DETERMINATION OF ISSUES UNDER RULE 16(C)**

Robert A. Bilott, being first duly sworn, state as follows:

1. I am a partner with the law firm of Taft Stettinius & Hollister LLP in Cincinnati, Ohio, and am one of the Co-Lead Counsel for the Plaintiffs' Steering Committee in this MDL (the "PSC").
2. I and am submitting this Affidavit in support of Plaintiffs' Motion for Partial Summary Judgment Under Rule 56 of For Determination of Issues Under Rule 16(c), being filed contemporaneously herewith.
3. I served as one of Plaintiffs' counsel in the lawsuit styled *Tennant, et al., v. E.I. du Pont de Nemours & Co., Inc.*, Civil Action No. 6:99-0488 (S.D. W. Va.) ("*Tennant Case*"), and in the lawsuit styled *Rhodes, et al. v. E. I. du Pont de Nemours and Company*, Civil Action No. 6:06-0530 (S.D. W. Va.) ("*Rhodes Case*").

4. I served as one of Plaintiffs' class counsel in the lawsuits styled *Rowe, et al., v. E. I. du Pont de Nemours and Company*, Civil Action No. 06-1810-RMB-AMD (D. N.J.), and *Scott v. E. I. du Pont de Nemours and Company*, Civil No. 06-3080-RMB-AMD (D. N.J.) (collectively "*Rowe/Scott Case*"), and continue to serve as one of Plaintiffs' class counsel in the lawsuit styled *Leach, et al., v. E. I. du Pont de Nemours and Company*, Civil Action No. 01-C-608 (Wood Cty. W. Va. Cir. Ct.) ("*Leach Case*").

5. Attached hereto at Exhibit A is a true and accurate copy of the Amended Class Action Complaint served against Defendant E. I. du Pont de Nemours and Company ("DuPont") in the *Leach* case.

6. Attached hereto at Exhibit B is a true and accurate copy of the text of a letter I sent to various recipients, including DuPont, during the *Tennant Case*, dated March 6, 2001.

7. Attached hereto at Exhibit C is a true and accurate copy of the unreported class certification decision and Order in the *Leach Case*, as available through Westlaw at 2002 WL 1270121 (Wood Cty. W. Va. Cir. Ct.) (April 10, 2002).

8. Attached hereto at Exhibit D is a true and accurate copy of the text of the final Class Action Settlement Agreement in the *Leach Case*, entered into on November 17, 2004 (the "*Leach Settlement*").

9. Attached hereto at Exhibit E is a true and accurate copy of the final Order Approving Final Settlement and Notice Plan and For Entry of Final Judgment in the *Leach* case, entered on February 28, 2005.

10. Attached hereto at Exhibit F is a list of those individuals who either opted out of or otherwise formally waived their status as a Class Member in the *Leach* Case through the processes and procedures approved by the *Leach* Court.

11. Attached hereto at Exhibit G is a true and accurate copy of the form of direct written notice negotiated by the parties in the *Leach* Case and approved by the *Leach* court for direct mailing to all *Leach* Class Members in 2005.

12. Attached hereto at Exhibit H is a true and accurate copy of the form of published notice approved by the *Leach* Court in late 2012 for publication to *Leach* Class Members and which appeared in Court-approved media outlets shortly thereafter.

13. Attached hereto at Exhibit I is a true and accurate copy of the Joint Motion for Entry of Stipulation of Dismissal jointly filed by the parties in the *Leach* case on November 12, 2012, along with a true and accurate copy of the *Leach* Court's Order Approving Stipulation of Dismissal, entered on November 15, 2012.

14. Attached hereto at Exhibit J is a true and accurate copy of Plaintiffs' Initial Master Set of Requests for Admissions and Stipulations to DuPont, without attachments ("First MDL Discovery Set"), which the PSC served on DuPont in this MDL on October 1, 2013.

15. Attached hereto at Exhibit K is a true and accurate copy of DuPont's Responses to the First MDL Discovery Set, served by DuPont on the PSC on December 9, 2013.

16. Attached hereto at Exhibit L is a true and accurate copy of a letter the PSC, through co-lead counsel, sent to DuPont's counsel, dated December 16, 2013.

17. Attached hereto at Exhibit M is a true and accurate copy of a letter DuPont's counsel sent to the PSC's co-lead counsel, dated January 8, 2014.

18. Attached hereto at Exhibit N is a true and accurate copy of the Motion for Coordination and Consolidation and Transfer Pursuant to 28 U.S.C. § 1407, filed by DuPont before the United States Judicial Panel on Multidistrict Litigation ("JPML") on January 11, 2013.

19. Attached hereto at Exhibit O is a true and accurate copy of a Transfer Order entered by the JPML on April 9, 2013.

20. Attached hereto at Exhibit P is a true and accurate copy of a list of those impacted drinking water supplies upon which Class Member status can be based, within the meaning of Section 2.1.1 of the *Leach* Settlement.

21. Attached hereto at Exhibit Q is a true and accurate copy of a letter sent to the C8 Science Panel by DuPont's lead class counsel in the *Leach* Case, dated January 22, 2010.

22. Attached hereto at Exhibit R is a true and accurate copy of relevant excerpts from DuPont's Responses to Plaintiffs' Second Set of Requests for Admissions in the *Leach* Case, served on January 23, 2003.

23. Attached hereto at Exhibit S is a true and accurate copy of relevant excerpts from the Expert Report of Dr. Philip S. Guzelian, dated February 29, 2008, which was served on behalf of DuPont in the *Rowe/Scott* Case.¹

24. Attached hereto at Exhibit T is a true and accurate copy of relevant excerpts from the Expert Report of Robert C. James, Ph.D., dated June 4, 2009, which was served on behalf of DuPont in the *Rowe/Scott* Case.

25. Attached hereto at Exhibit U is a true and accurate copy of relevant excerpts from the Memorandum in Support of DuPont's Motion to Exclude the Testimony of Dr. Barry Levy and Dr. David Gray, filed by DuPont in the *Rowe/Scott* Case on September 21, 2010.

26. Attached hereto at Exhibit V is a true and accurate copy of relevant excerpts from the Reply Memorandum in Support of DuPont's Motion to Exclude the Opinions of David G. Gray and Barry S. Levy, filed by DuPont in the *Rhodes* Case on July 29, 2009.

27. Attached hereto at Exhibit W is a true and accurate copy of relevant excerpts from the transcript of the Final Fairness Hearing held on February 28, 2005, to consider final approval of the class action settlement agreement in the *Leach* Case.

¹ Although this copy is marked "confidential," I understand from prior correspondence exchanged with DuPont's counsel that DuPont is not asserting any confidentiality claim over these particular excerpted pages of Dr. Guzelian's report.

FURTHER AFFIANT SAYETH NOT.

[Signature]

SWORN TO and SUBSCRIBED before me this 2nd day of September 2014.

Kathleen J. Welch

NOTARY PUBLIC:



KATHLEEN J. WELCH
Notary Public, State of Ohio
My Commission Expires
March 19, 2018